

**HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY**

Writ Appeal No.611 of 2007

Between:

Hyderabad Metropolitan Water Supply and
Sewerage Board, rep., by its Managing Director
and four others. ... Appellants

And

Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad and 50 others. ... Respondents

:: J U D G M E N T ::

Counsel for the appellants : Shri J. Sudheer, Special
Government Pleader

Counsel for respondent Nos.2 to 51 : Shri A.K. Jayaprakash Rao

30th August, 2007

Per G.S. Singhvi, C.J.

This is an appeal for setting aside order dated 9-2-2007 passed by the learned Single Judge in WPMP.Nos.1602 and 29954 of 2004 and WVMP.No.2325 of 2006 in Writ Petition No.1239 of 2004, whereby he modified the order dated 10-12-2004 in WPMP No.29954 of 2004 by vacating the stay to the extent of regularisation of the respondents and continuing the interim order so far as payment of arrears to them is concerned.

A perusal of the record shows that the respondents were engaged in the employment of appellant No.1 – Hyderabad

Metropolitan Water Supply and Sewerage Board (for short, 'the Board') some time in 1989. In 1992, they filed Writ Petition No.8906 of 1992 for issue of a direction to the non-petitioners (the appellants herein) to regularise their services as Gangmen and Gang Mazdoors. The same was disposed of by the High Court with a direction that the writ petitioners should approach the Labour Court for the purpose of ascertaining whether they were employed by the Board directly or engaged through a contractor. Thereafter, the respondents filed two applications before Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad (for short, 'the Tribunal'). The same were registered as I.D.Nos.35 of 1998 and 37 of 2001. By an award dated 3-10-2002, the Tribunal directed the Board to regularise the services of the employees who had completed five years service and pay them arrears from the date of regularisation.

After one year of the pronouncement of the award, the appellants filed Writ Petition No.1239 of 2004 and prayed that the same be quashed. They also filed WPMP.No.1602 of 2004 for suspending the operation of the award.

By an order dated 9-11-2004, the learned Single Judge stayed all further proceedings in the matter of payment of arrears and back wages. However, no stay was granted against the direction for regularisation of the services of the respondents. Therefore, they filed E.P.No.3 of 2004 for execution of the award by asserting that there was no stay against their regularisation. On receipt of notice of the execution petition, the appellants filed WPMP.No.29954 of 2004 and succeeded in persuading the learned Single Judge to pass an absolute interim order on 10-12-2004. The respondents then filed WVMP.No.2325 of 2006 for vacating the interim order.

The learned Single Judge, after hearing counsel for the parties,

modified the earlier order and declared that stay of the proceedings in E.P.No.3 of 2004 shall operate only insofar as payment of arrears is concerned and that there shall be no stay with regard to regularisation of the services of the respondents – workmen.

Sri J. Sudheer, learned counsel for the appellants made strenuous efforts to convince us that even though the writ petition was filed after more than one year and three months of the pronouncement of the award by the Tribunal, the learned Single Judge had rightly stayed the proceedings emanating from E.P.No.3 of 2004 and that there was no justification to entertain WVMP.No.2325 of 2006 and modify the interim order. He submitted that if the services of the respondents are regularised in the employment of the Board, serious complications will arise and they may claim equity at the time of final adjudication of the writ petition.

Sri A.K. Jayaprakash Rao, learned counsel for the respondents emphasised that his clients have worked under the Board for more than 15 years and argued that the clarification given by the learned Single Judge regarding the ambit and scope of the interim order does not warrant interference by the Division Bench. He further argued that the appellants are not going to suffer any loss by regularisation of the services of the respondents because the payment of arrears would still remain stayed.

We have considered the respective submissions and carefully examined the record. At the cost of repetition, we consider it necessary to observe that the appellants had filed the writ petition after more than one year and three months of the pronouncement of the award and this appears to be the reason why the learned Single Judge did not entertain the prayer made by them in WPMP No.1602 of 2004 for stay of the award in its entirety. It seems quite strange that after

having declined the appellants' prayer for total stay, the learned Single Judge entertained WPMP.No.29954 of 2004 and passed order dated 10-12-2004, which had the effect of stultifying the respondents' claim for regularisation. What has been done by the learned Single Judge by passing the order under challenge is to clarify that the stay granted earlier would operate only qua the payment of arrears and there will be no stay against regularisation of the services of the workmen. By doing so, the learned Single Judge has settled the equities between the parties and we do not see any reason to interfere with the discretion exercised by him.

In the result, the appeal is dismissed.

As a sequel to dismissal of the appeal, WAMP.No.1235 of 2007 filed by the appellants for interim relief is also dismissed.

G.S. SINGHVI, C.J.

30th August, 2007.

C.V. NAGARJUNA REDDY, J.

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